

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

STATE OF MISSISSIPPI; STATE OF
ALABAMA; STATE OF ARKANSAS;
COMMONWEALTH OF
KENTUCKY; STATE OF
LOUISIANA; STATE OF MISSOURI;
and STATE OF MONTANA,

Plaintiffs,

v.

Case No. 1:22-cv-113-HSO-RPM

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; THE UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare and Medicaid
Services; THE CENTERS FOR
MEDICARE AND MEDICAID
SERVICES; THE UNITED STATES
OF AMERICA,

Defendants.

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITIES

This week, President Trump issued two executive orders that bear on this case. The first orders federal agencies to end “all ... ‘equity’ actions, initiatives, or programs.” *Ending Radical and Wasteful Government DEI Programs and Preferencing* §2(b)(i) (Jan. 20, 2025), perma.cc/38AL-XJ27 (attached as Ex. A). The second revokes the executive order that was the original “rationale for implementing the Anti-Racism Rule.” *Colville v. Becerra*, 2023 WL 2668513, at *6 (S.D. Miss.); see *Initial Rescissions of Harmful Executive*

Orders and Actions §2 (Jan. 20, 2025), perma.cc/9B54-7P35 (attached as Ex. B). Defendants cited that now-revoked order “[i]n support of” the challenged anti-racism plans. *Colville*, 2023 WL 2668513, at *6.

These new orders support Plaintiffs’ argument that race equity plans encourage discrimination. Per the order, these equity programs perpetuated “shameful discrimination” by the federal government. Ex. A §1. The policies are “discriminatory,” “illegal,” and contrary to the principle of treating “every person with equal dignity and respect.” §§1-2; *accord Ending Illegal Discrimination and Restoring Merit-Based Opportunity* §§2, 4 (Jan. 22, 2025), perma.cc/TW47-RRMD (ordering agencies to terminate DEI “regulations” and to “encourage the private sector to end illegal discrimination and preferences, including DEI”). The order contradicts Defendants’ position that race-equity plans do not “encourag[e] or ... requir[e] racial prioritization and discrimination.” Def.MSJ (Doc. 170) at 1.

These new orders also support Plaintiffs’ argument under the major-questions doctrine. Per the President, these equity policies “forced *illegal* and *immoral* discrimination programs, going by the name ‘diversity, equity, and inclusion’ (DEI), into virtually all aspects of the Federal Government.” Ex. A §1 (emphases added). They are “radical” and create “immense public waste.” *Id.* Their importance is so great that President Trump issued his order on his first day in office. Because the injection of race into healthcare is “politically divisive” and of “staggering” “political significance,” *Recruitment v. SEC*, 2024 WL 5078034, at *16 (5th Cir. Dec. 11, 2024) (en banc), the Anti-Racism

Rule implicates and fails the major-questions doctrine, *see* MSJ.Reply (Doc. 184) at 2, 20-21. This Court should grant Plaintiffs' summary-judgment motion forthwith.

Dated: January 22, 2025

Respectfully submitted,

s/ Justin L. Matheny

Justin L. Matheny (MS Bar No. 100754)

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CERTIFICATE OF SERVICE

I e-filed this notice with the Court, which will email everyone requiring service.

Dated: January 22, 2025

s/ Cameron T. Norris